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(1)

IN THE HIGH COURT OF JUDICATURE AT BILASPUR

(CHHATTISGARH)

WRIT PETITION NO. 2140 OF 2006

Single Bench

PETITIONER : Amit Singh Deo, Son of Shri Ajit Pratap Singh Deo, aged about 28 years, Occupation Agriculture, Resident of Village Lakhanpur, Police Station Lakhanpur, District Surguja (C.G.).

P.R. No. 2175/06
Presented by Shri Yogesh Patel
dated 21/11/06

VERSUS

RESPONDENTS :

1. The Branch Manager, District Cooperative Agriculture and Rural Development Bank, Ambikapur, Branch Udaipur, District Surguja (C.G.).
2. The Sales Officer, District Cooperative Agriculture and Rural Development Bank, Ambikapur, Branch Udaipur, District Surguja (C.G.).
3. The Collector, District Surguja, Ambikapur (C.G.).
4. The Assistant Registrar, Cooperative Societies, Ambikapur, District Surguja (C.G.).
5. The In-charge Officer of Police Station Lakhanpur, District Surguja (C.G.).

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APARNA MISHRA
21/04/06

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..W.P.2140/06 सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

26.9.2006

Smt. Hamida Siddique, counsel for the petitioner.

Shri Rajeev Bharat, counsel for respondents no.1 & 2.

Shri Sushil Dubey, Govt. Advocate for respondents no.3, 4 and 5.

Arguments heard.

Order dictated as follows:

ORAL ORDER

By this writ petition filed under Article 226/227 of the Constitution of India, the petitioner has challenged the validity of order dated 01.4.2006 passed in Case No.10/06-07 by the Assistant Registrar, Co-Operative Societies, Ambikapur, Distt. Sarguja (Annexure P-1). By the aforesaid order, the said authority has dismissed the application of the petitioner for discharging his vehicles namely one Motor Cycle Hero Honda C.G.15/E/0760 and one Car bearing Regn.No.C.G.15 ZD 1201 which were seized by Seizure Memo dated 23.3.2006 filed as Annexure P-5.

The contention of learned counsel for the petitioner before the aforesaid authority was that the loan case in which the said vehicles were seized was against the father of the petitioner namely Ajit Pratap Singh and these vehicles stand in the name of the petitioner, therefore, these vehicles should not have been seized for recovery of the loan amount outstanding against his father and the seizure was bad in law. The aforesaid contention was negatived by the concerned authority and ultimately the impugned order dated 01.4.2006 was passed. It was held by the concerned authority

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मामला क्रमांक ..W.P..914.0/..06.... **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश 2	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

that since the entire mortgaged property has been transferred by the borrower on the names of persons of his family and since the petitioner i.e., son of the borrower could not file any document to show that the vehicles were purchased from his personal income, therefore, the vehicles were rightly seized holding them to be the property of the joint Hindu Family and the property of the joint Hindu Family can be seized for satisfaction of the loan taken by one of the members of the joint Hindu family. After rejection of the aforesaid application filed for release/discharge of the above vehicles, the concerned authority fixed the case for filing written statement on 28.4.2006.

Return on behalf of respondents no.1 & 2 has been filed. It has been contended in the return that one recovery proceeding against the petitioner was also initiated by the Central Bank of India for recovery of the loan amount which was disbursed by the said Bank to the petitioner. Both the recovery proceedings i.e., proceedings against the petitioner as well as his father were going on separately against the petitioner and his father simultaneously. The vehicle of the petitioner was seized by Naib Tahsildar for recovery of the loan amount recoverable against the petitioner for the Central Bank of India and not for recovery of the loan amount of the petitioner's father. In support of this contention, a *Panchnama* showing the seizure of these vehicles, has also been filed by the respondents as Annexure R-1/1. Another document Annexure R-1/2 has also been filed by the said respondents. It has been shown to be written by the recovery officer i.e., Naib

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Tahsildar, Lakhanpur and it shows that the entire outstanding amount of loan against the present petitioner has been repaid by him under certain settlement and in this situation, he has no objection in releasing the vehicles seized in connection with the loan taken by the present petitioner.

During the course of arguments, it was told to this court by counsel for the petitioner that the aforesaid vehicles of the petitioner so seized by the recovery officer have been given on *Suprudnama* to the petitioner and now the relief regarding release of vehicles on *Suprudnama* has become infructuous. However, learned counsel for the petitioner submits that in view of the reply filed by respondents no.1 & 2, the order dated 01.4.2006 be also quashed, as in fact, according to the version of respondents no.1 & 2, these vehicles were not seized in the loan case of father of petitioner.

Be that as it may, now the position emerges that the vehicles of the petitioner were not seized by respondents no.1 & 2 in pursuance of the loan case pending against the father of the petitioner. Therefore, now nothing remains in this petition for taking further action and since the vehicles have not been seized in the loan case pertaining to the father of the petitioner, the impugned order passed by the Asst. Registrar justifying the seizure so made does not carry any meaning. When it is stated that the vehicles itself were not seized in pursuance of the loan case of the petitioner's father, there is no justification in keeping that order in force which is in relation to the loan case of his father.

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मामला क्रमांक ...W.P.No.2140 **सन्** 2006

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -4-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

In view of the above facts and circumstances, particularly in view of the return filed by respondents no.1 & 2, the impugned order passed by the Assistant Registrar dated 1.4.2006 is hereby quashed. No charge shall be held to have been created over the above said two vehicles of the petitioner pertaining to the loan case of his father.

The petition stands allowed to the extent indicated above. However, the respondent-authorities shall be free to prosecute and complete the recovery proceedings against the father of the petitioner independently, in accordance with law.

C.c. as per rules.

Sd/-
Sunil Kumar Sinha
Judge

(Rao)

P.T.O.

16.10.06